IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 568 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BAVABHAI SHAMBHUBHAI RAKHOLIA

Versus

GANDABHAI @ MOHANBHAI BHURABHAI DOBARIA

Appearance:

MR SANDEEP N BHATT for Petitioner.

MR JITENDRA MALKAN for Respondent.

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 19/09/2002

ORAL JUDGEMENT

Heard Mr. Sandeep Bhatt, ld. advocate appearing for the applicant-revisionist and Mr. Jitendra Malkan, ld. advocate for the respondent.

2. The present Civil Revision Application is filed against the judgment and order passed in Civil Misc. Application No. 31/98 by the 2nd Joint District Judge, Junagadh on 24.4.2001 reversing the order of the ld. Civil Judge (JD), Visavadar passed on 20.2.1998 in an

application Exh. 5 in Regular Civil Suit No. 49 of 1997. The ld. Civil Judge (JD), Visavadar however has directed to maintain status-quo during the pendency of the suit. The defendants had filed an appeal before the ld. 2nd Joint District Judge at Junagadh. During the pendency of the said appeal, the ld. 2nd Joint District Judge, at Junagadh had granted stay against the said order and ultimately the appeal was allowed and the roder dated 28.2.1998 passed in application Exh. 5 in Regular Civil Suit No. 49/97 was quashed and set aside. Against this order the original-plaintiff has come in revision before this Court. Since the present C.R.A. is not maintainable in view of the provisions contained in Section 115 of the C.P.C. Mr. Sandeep N. Bhatt, ld. advocate appearing for the applicant-revisionist seeks permission to withdraw the Civil Revision Application with a permission to file Special Civil Application under Art. 227 of the Constitution of India. Permission as prayed for is granted. The CRA is accordingly disposed of as having been withdrawn. Rule is discharged. The stay granted by this Court on 24.5.2001 and which has remained in operation during the pendency of the present CRA shall continue for a period of two weeks from today.

rmr. [K.A. Puj, J.]